

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* BRUCE A. FRASER, WAYNE P. BEAGLE and PETER F. KAIDO

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Appeal No. 2002-0010  
Application 09/073,308

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ON BRIEF

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Before FRANKFORT, PATE, and BAHR, *Administrative Patent Judges*.  
PATE, *Administrative Patent Judge*.

*DECISION ON APPEAL*

This is an appeal from the final rejection of claims 1 through 3. Claim 4, the other claim remaining in the application, has been allowed.

The claimed invention is directed to an improvement in suction valves in reciprocating piston compressors. Appellants' valve is plastically deformed so that in unstressed condition it is spaced from the valve seat.

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The claimed subject matter may be further understood with reference to the appealed claims appended to appellants' brief.

The reference of record relied upon by the examiner as evidence of anticipation and obviousness is:

Fritchman	4,642,037	Feb. 10, 1987
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*THE REJECTIONS*

Claim 1 stands rejected under 35 U.S.C. § 102 as anticipated by Fritchman.

Claims 1 through 3 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fritchman.

*OPINION*

We have carefully reviewed the rejections on appeal in light of the arguments of the appellants and the examiner. As a result of this review, we have determined that claim 1 is anticipated by the applied prior art and claims 1-3 are *prima facie* obvious in view thereof. Inasmuch as appellants have not presented additional evidence to rebut the *prima facie* case, all rejections on appeal are affirmed. Our reasons follow.

The examiner's findings of fact with regard to Fritchman are in the last full paragraph of page 3 of the answer. We adopt these findings as our own.

Appellants argue that the *entire* valve of Fritchman is not normally spaced from the valve seat, that *no portion* of the appellants' valve touches the valve seat in the unstressed position, or that the reed valve of appellants is *entirely separated* from the valve seat. None of these arguments finds any basis in the claim language. The claim merely requires that the valve be spaced from the valve seat. Given the canted nature of Fritchman, a major portion of Fritchman is separated from the seat when in unstressed condition. The arguments in the brief are simply not commensurate with the scope of the claimed subject matter.

Fritchman discloses that the distance the far side of the valve is separated from the valve seat is one to two times the thickness of the valve sheet itself. Since the valve sheet is disclosed as 0.008 inches in thickness, the separation of the far edge of the valve is between 0.008 and 0.016 inches inclusive. This is well within appellants' claimed 0.001 to 0.020 inches. We note the argument in the brief is directed to 0.001 to 0.002 inches which is not the claimed or disclosed range. The arguments in the brief are not credited. The subject matter of claim 2 would have been *prima facie* obvious, anticipation being

the epitome of obviousness. *In re McDaniels et al.*, 01-1307 (Fed. Cir. June 19, 2002); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983); *In re Fracalossi*, 681 F.2d 792, 794, 215 USPQ 569, 571 (CCPA 1982) quoting *In re Pearson*, 494 F.2d 1399, 1402, 181 USPQ 641, 644 (CCPA 1974) (a lack of novelty in the claimed subject matter, e.g., as evidenced by a complete disclosure of the invention in the prior art, is the "ultimate or epitome of obviousness").

Claim 3 merely requires the valve seat to be machined to space the suction valve from the suction valve seat. Presumably, the valve seat of Fritchman has been machined in some manner, even if entirely flat, as in the prior art. The claim does not state how the seat is machined, and since the valve shape of Fritchman assure the claimed separation, Fritchman inherently anticipates this claim. The obviousness rejection of claim 3 is affirmed, anticipation being the epitome of obviousness.

All rejections are affirmed.

No time period for taking any subsequent action in

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connection with this appeal may be extended under 37 CFR  
§ 1.136(a).

*AFFIRMED*

CHARLES E. FRANKFORT	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
WILLIAM F. PATE III	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JENNIFER D. BAHR	)	
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